

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. S1-4:13CR00058 HEA
)
JEFFREY ELLERBECK)
)
Defendant.)

**MOTION OF THE UNITED STATES
FOR PRELIMINARY ORDER OF FORFEITURE**

COMES NOW the United States of America, by and through its attorneys, Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and Jennifer A. Winfield, Assistant United States Attorney for said District, and moves this Court to issue a Preliminary Order of Forfeiture in the above-captioned case. In support thereof, the United States sets forth the following:

1. On June 24, 2013, Defendant Jeffrey Ellerbeck pled guilty to a violation of Title 21, United States Code, Section 841(a)(1), and also agreed, in writing in the Guilty Plea Agreement, to the forfeiture of certain property as set forth below (the "Subject Property"):
 - a. 2004 Audi A6, VIN: WA1YD64B74N001039; and
 - b. \$302,855.00 U.S. Currency.
2. Accordingly, the United States now moves pursuant to Rule 32.2(b) of the Federal Rules of Criminal Procedure for the entry of a Preliminary Order of Forfeiture, forfeiting the

Subject Property to the United States pursuant to the notice provided in the Superseding Information.

3. Based upon the evidence set forth in the Plea Agreement and presented at the plea hearing held on June 24, 2013, the United States has established the required nexus between the Subject Property and the offenses to which Defendant has pleaded guilty. Accordingly, the Subject Property is subject to forfeiture to the United States pursuant to Title 21, United States Code, Section 853.

4. Pursuant to Rule 32.2(b)(6) and Title 21, United States Code, Section 853(n), upon the issuance of a Preliminary Order of Forfeiture ordering the forfeiture of specific property, the United States shall publish notice of the Order and send direct notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

5. Upon adjudication of all third-party interests, this Court shall enter a Final Order of Forfeiture pursuant to Rule 32.2(c) and Title 21, United States Code, Section 853(n), in which the Subject Property will be ordered forfeited to the United States to be disposed of according to law.

6. Pursuant to Federal Rule of Criminal Procedure 32.2(b)(4)(A), the Court's order becomes final as to the Defendant upon sentencing. To the extent the order directs Defendant to forfeit specific property, it remains preliminary as to third parties until the ancillary proceeding is concluded under Rule 32.2(c).

7. Pursuant to Federal Rule of Criminal Procedure 32.2(b)(4)(B), the Court must include the forfeiture when orally announcing the sentence or must otherwise ensure Defendant

knows of the forfeiture at sentencing. The Court must also include the forfeiture order, directly or by reference, in the judgment, but the Court's failure to do so may be corrected at any time under Rule 36.

WHEREFORE, the United States respectfully requests that this Court determine that Subject Property as set forth in paragraph 1 above is subject to forfeiture and enter a Preliminary Order of Forfeiture. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States also requests authority to conduct any discovery permitted by the Federal Rules of Civil Procedure in order to identify, locate, or dispose of any property subject to forfeiture under this order, including depositions, interrogatories, subpoenas, and requests for production. The United States submits herewith its proposed Preliminary Order of Forfeiture.

Dated: June 10, 2013

Respectfully submitted,

RICHARD G. CALLAHAN
United States Attorney

/s/ Jennifer A. Winfield
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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2013 the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Jennifer A. Winfield
JENNIFER A. WINFIELD, #53350MO
Assistant United States Attorney